Claims 30-35 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,391,423 to Wnuk et al. ("Wnuk").

In rejecting claims 30-32, the Examiner states that Wnuk "discloses a biodegradable laminate comprising a polycaprolactone core layer surrounded by outer layers of other biodegradable resins such as cellulose esters, polyglycolic acid copolyesters, and/or aliphatic polyester such as polyethylene succinate...as recited in claims 30-32..." [December 12, 2002 Office Action at page 2, ¶3].

In rejecting claims 33, the Examiner states that Wnuk discloses "film layers [that] are co-extrudable (lines 40-50, col. 22) as recited in claim 33" [December 12, 2002 Office Action at page 2, ¶3].

In rejecting claim 34, the Examiner states that "...it is well known in the art to select the materials used in the various outer and core layers of a laminate to improve the overall mechanical properties of the laminate as a whole and to compensate for the material-specific weakness of individual layers" [December 12, 2002 Office Action at page 2, ¶3]. The Examiner further asserts that she "has reason to believe that the laminates disclosed in Wnuk et al. are capable of possessing tear strengths superior to those of single material films of comparable thickness as recited in claim 34" [December 12, 2002 Office Action at page 3, lines 2-4].

In rejecting claim 35, the Examiner contends that "[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the laminate disclosed in Wnuk et al. in known applications where a combination of barrier and/or mechanical properties and biodegradability is deemed desirable, such as in agricultural applications as indicated in claim 35" [December 12, 2002 Office Action at page 2, ¶3].

B. Wnuk Does Not Teach Applicants' Claimed Invention

Applicants respectfully traverse the rejection of claims 30-35 as being unpatentable over Wnuk. Wnuk does not teach, disclose or suggest "a biodegradable laminated film in monoaxially or biaxially stretched form comprising a polycaprolactone layer with at least two other biodegradable resin layers, in which said polycaprolactone layer is sandwiched between two other biodegradable resin layers," as recited in Applicants' newly amended claim 30.

Instead, Wnuk merely describes flexible biodegradable films comprising multilayer combinations of biodegradable polymers. The multilayers may include moisture sensitive polymers, thermally sensitive polymers, polymers that are difficult to process into films, mechanically limited polymers, hydrolytically cleavable polyesters, elastomers, tie layers, and various optional components. Wnuk does not teach, disclose, or suggest that the biodegradable films comprising multilayer combinations can be monoaxially or biaxially stretched, as recited in Applicants' claim 30. Because the reference does not teach or suggest all of the claim elements, the rejection of claims 30-35 under 35 U.S.C. §103(a) should be withdrawn. (MPEP §2143.03).

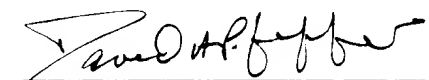
Dependent claims 31-35, 68, and 69 are also patentably distinct over Wnuk for similar reasons. Accordingly, these claims are also in condition for allowance. Reconsideration and withdrawal of the rejection of claims 31-35 under 35 U.S.C. §103(a) are respectfully requested.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the pending claims are in condition for allowance. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 3, 2003

By: 
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APPENDIX

Marked up copy of claim 30: (underlining shows additions).

30. A biodegradable laminated film in monaxially or biaxially stretched form comprising a polycaprolactone layer with at least two other biodegradable resin layers, in which said polycaprolactone layer is sandwiched between two other biodegradable layers.